

**FILED**

**MAR 29 2006**

**CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS**

**NOT FOR PUBLICATION**

**UNITED STATES COURT OF APPEALS**

**FOR THE NINTH CIRCUIT**

MARQUES DEAN HAMILTON,

Plaintiff - Appellant,

v.

HERALD D. SEGAL, M.D., INC.,

Defendant - Appellee.

No. 05-55701

D.C. No. CV-04-10462-DSF

MEMORANDUM<sup>\*</sup>

Appeal from the United States District Court  
for the Central District of California  
Dale S. Fischer, District Judge, Presiding

Submitted March 8, 2006<sup>\*\*</sup>

Before: CANBY, BEEZER, and KOZINSKI, Circuit Judges.

Marques Dean Hamilton, a California state prisoner, appeals pro se the district court's judgment dismissing his 42 U.S.C. § 1983 action for failure to pay the partial filing fee ordered by the district court. We have jurisdiction pursuant to

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<sup>\*</sup> This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

<sup>\*\*</sup> The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

28 U.S.C. § 1291. We review for abuse of discretion the district court's decision to impose a partial filing fee pursuant to 28 U.S.C. § 1915 and dismissal for failure to pay. *Taylor v. Delatoore*, 281 F.3d 844, 847 (9th Cir. 2002). We affirm.

Hamilton failed to comply with the court's order to pay the \$20.00 initial partial filing fee, and failed to explain why he did not pay, even though prison records indicated he possessed funds in his inmate trust account. The district court did not abuse its discretion in dismissing this action without prejudice to refiling upon payment of appropriate fees. *See Alexander v. Carson Adult High Sch.*, 9 F.3d 1448, 1449 (9th Cir. 1993).

**AFFIRMED.**